

### REMARKS

Claims 1-63 were pending. Claims 1, 22 and 43 are independent claims. The applicant respectfully traverses the rejections made in the action mailed January 25, 2005, and in the advisory action mailed May 4, 2005.

The independent claims have been amended for clarity and antecedent basis for dependent claims without changing the scope of the claims. The specification has been amended to correct a clerical error. No new matter has been added.

### Section 103 Rejections

Claims 1-2, 11-13, 22, 23, 43, 44, 53 and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,459,436 to Kumada et al. ("Kumada"). Claim 1 recites the action of "identifying a device color profile associated with a device; and automatically selecting a rendering intent based on the color characteristics of the device, the color characteristics being defined by the device color profile." The applicant respectfully traverses the rejection because claim 1 and the other independent claims include elements not disclosed or suggested by Kumada.

Independent claims 1, 22, and 43. The Examiner asserts that Kumada discloses automatically selecting a rendering intent based on the viewing condition of the device wherein the viewing condition is defined by the device color profile. (Figs. 1-3, 19; Abstract; col. 7, line 57 – col. 8, line 11; col. 8, line 56 – col. 10, line 6). The applicant respectfully disagrees.

Kumada discloses three steps in these cited portions. (Col. 7, line 57 – col. 8, line 11; Fig. 3.) First, Kumada discloses generation of a look up table (LUT) which converts data dependent on an input device to data of the device-independent color space which accords to a white point of ambient light at the time of viewing an image formed on an original. (Col. 7, lines 58–62; Col. 7, lines 18-25; col. 8, line 56 – col. 9, line 57.) Second, Kumada discloses selection of a gamut mapping mode. (Col. 7, lines 62–66; Col. 9, line 58 – col. 10, line 6.) Finally, the cited portion of Kumada discloses a process of performing gamut mapping. (Col. 7, line 66 – col. 8, line 3; col. 10 line 7 – col. 10, line 52.)

The only portion in the text related to rendering intent reads: "A gamut mapping mode is selected by a user through a user interface, or automatically selected by Rendering Intent included in the header of a source profile." (Col. 9, lines 60–62.) The gamut mapping mode in Kumada describes "whether the gamut mapping is performed in the JCH color perception space or in the QMH color perception space." (Col. 7, lines 62–65.) This is selected either explicitly by the user or chosen automatically by a designation in the profile of a rendering intent. (Col. 7, lines 65–66; col. 9, lines 60–62.) In particular, the text of Kumada states that if the Rendering Intent in the profile is Perceptual, Relative Colorimetric, or Saturation, then the gamut mapping mode of JCH color space is automatically selected. (Col. 9, line 65 – col. 10, line 1.) If the Rendering Intent in the profile is Absolute Colorimetric, then the gamut mapping mode of QMH color space is automatically selected. (Col. 10, lines 2–3.) The cited portion discusses automatic selection only of a gamut mapping mode. There is no disclosure or suggestion that the rendering intent itself can be automatically selected.

The Examiner further asserts that a plurality of rendering intents are included in the header of the source or destination profile and one of these is automatically selected based on the viewing condition of the source or destination profile, citing col. 9, line 60 – col. 10, line 52. The applicant respectfully disagrees. The Examiner's cited portion discusses automatic selection only of a gamut mapping mode as discussed above. If a plurality of rendering intents, such as saturation and absolute colorimetric, are given in the source profile, Kumada does not disclose or suggest automatic selection of one of these rendering intents.

In the advisory action the Examiner repeats the error, erroneously stating that "the gamut mapping is automatically selected by the automatic selection of the rendering intent." (Detailed Action, page 2, relying on col. 9 line 60 – col. 10 line 3) It is correct that the gamut mapping is automatically selected, but not that the rendering intent is.

The Examiner then further mistakenly states that "the plurality of rendering intents . . . are included in the header of the source or destination profile is for the automatic selection of one rendering intent based on the viewing condition of the source or destination profile. (col. 9, line 60 – col. 10, line 52)" This statement misreads of the reference. As is known to those of skill in the art, multiple rendering intents are included in ICC color profiles, but they are there for user selection; and for that reason, color profiles contain ways of mapping for every rendering intent.

Nothing in Kumada says that one of the rendering intents is automatically selected, only that gamut mapping is.

The Examiner says that "Kumada does not teach that the viewing conditions is the color characteristics of the device." (Final Action, page 4) This is true. But then the Examiner goes on to state mistakenly that "from Fig. 19, the input or output viewing conditions are the luminance, illuminant, ambient light, which are the color characteristics of the input and output devices." To refer to these as color characteristics of the device is nonsense; they are the environment in which the input or the output, as the case may be, of the devices is viewed. In fact, Fig. 19 illustrates a GUI – a graphical user interface. (Col. 4, lines 17-18.) Fig. 19 is described quite clearly in Kumada, beginning on line 60 of column 18, and the description does not support the Examiner's reading of the reference:

FIG. 19 shows a GUI 191 for setting a parameter of a viewing condition according to the third embodiment.

Reference numeral 213 denotes a drop-down combo-box for setting a viewing subject on the input side (i.e., input device); 217, a drop-down combo-box for setting a viewing subject on the output side (i.e., output device); 214, a text box for inputting a luminance of a viewing subject on the input side; 215, a drop-down combo-box for selecting the type of white point in the viewing subject on the input side; 216, a drop-down combo-box for selecting a viewing condition on the input side; 218, a text box for inputting a luminance of a viewing subject on the output side; 219, a drop-down combo-box for selecting a white point in the viewing subject on the output side; and 2110, a drop-down combo-box for selecting a viewing condition on the output side.

Thus, nothing in Kumada supports the assertion that viewing conditions are color characteristics of the devices.

For at least the above reasons, the applicant respectfully submits that independent claims 1, 22, and 43 are in condition for allowance. The applicant also respectfully submits that the pending dependent claims are for at least that reason also in condition for allowance.

Claims 11, 32, and 53. Claims 11, 32, and (apparently) 53 were rejected as allegedly obvious over Kumada because, "Kumada further teaches that the [output] device is a device to be

emulated.” In addition to misreading the verb “emulate”, the Examiner ignores an entire limitation in these claims.

These claims all depend from the independent claims, which recite that the rendering intent is automatically selected “based on the color characteristics of the output device,” which characteristics are defined by the output device’s device color profile. These claims themselves recite that the rendering intent is also automatically selected based on the emulation device color profile. As was recited in claim 2 and its corresponding claims (now cancelled), and is now recited slightly differently in claims 11, 32, and 53, the emulation device is different from the output device. So these claims require that the device color profiles of two different devices be used in automatically selecting the rendering intent. The Examiner has not found that limitation anywhere in Kumada, nor has the Examiner asserted that such a limitation is to be found there or anywhere else.

For the foregoing additional reasons, claims 11, 23, and 53, and their dependent claims, are in condition for allowance.

Motivation to combine. When combining references in the final action, the Examiner justified the combination by the following formulaic statement: “It would have been obvious . . . to combine the [teachings] since they are from the same field of endeavor and thus constitute analogous art . . . .” Merely identifying two references as constituting analogous art is insufficient to make out a *prima facie* case of obviousness, as the Examiner is required to do.

In making a rejection under § 103, the Examiner can satisfy the burden of making a *prima facie* case of obviousness “only by showing some objective teaching.” *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). As has often been noted, evidence of teaching or suggestion is “essential” to avoid the error of hindsight. *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988).

Because the Examiner has failed to provide any objective teaching, the rejections based on combinations of references should be withdrawn.

#### Allowable Subject Matter

Claims 5-10, 14-17, 26-31, 35-38, 47-52 and 56-59 were objected to as being dependent upon a rejected base claim, but the Examiner indicated they would be allowable if rewritten in independent form including all of the limitations of their respective base claims and any

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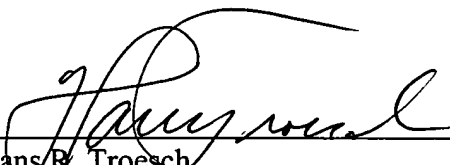
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intervening claims. Some of these claims have been amended, but all remain in dependent form. The applicant respectfully submits that because their base claims are in condition for allowance, these claims are also allowable in their present form.

The applicant submits that all claims are in condition for allowance. No fees are believed to be due. Please apply any required charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 29 June 05

  
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